

Separate Statement of Commissioner Maureen K. Ohlhausen, Dissenting ~~in~~
In the Matter of the Telemarketing Sales Rule
Project No. R411001
November 18, 2015

Today the Commission amends the Telemarketing Sales Rule (TSR) in an effort to combat telemarketing fraud.¹ I support the Commission's long-standing efforts to combat fraud. However, I do not support the amendments prohibiting telemarketers and sellers in both inbound and outbound telemarketing calls from requesting or accepting as payment four "novel" payment methods: remotely created checks (RCCs), remotely created payment orders (RCPOs), money transfers, and cash reload mechanisms. The amendments do not satisfy the third prong of the unfairness analysis in Section 5(n) of the FTC Act,² which requires us to balance consumer injury against countervailing benefits to consumers or competition. Although the record shows there is consumer

on their use in the telemarketing context may limit their use elsewhere as they would be stigmatized as a 'risky' form of payment.”⁶

- “FRBA and the Commission both perceive the check collection and return system is lacking a comprehensive method or process of identifying and responding to transactional patterns that are strongly indicative of large scale consumer fraud.